IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 13TH AUGUST 2007 / 22ND SRAVANA 1929

Crl.MC.No. 2582 of 2007()

CC.62/1999 of CHIEF JUDICIAL MAGISTRATE, KASARAGOD

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PETITIONER: ACCUSED

C.RAMACHANDRAN, S/O. PARAMESWARAN
EZHUTHASSAN,AGED 58 YEARS,
CHEENIKKATHODI HOUSE, KULAPPULLYAMSOM,
KANAYAM DESOM OTTAPALAM TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.P.BHASKARAN

RESPONDENTS: COMPLAINANT AND STATE

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1. BALAKRISHNAN,S/O.AMBADI, AGED 50 YEARS,
PAIKA HOUSE,NEKRAJA VILLAGE AND POST,
KASARAGODE TALUK,KASARAGODE DISTRICT.(DIED).

2. YASODHA, AGED 42 YEARS,W/O.BALAKRISHNAN,
PAIKA HOUSE,NEKRAJA VILLAGE AND POST,
KASARAGODE TALUK,KASARAGODE DISTRICT.(DIED).

3. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 13/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.2582 of 2007

Dated this the 13th day of August 2007

O R D E R

The petitioner faces allegations under Section 138 of the Negotiable Instruments Act. Cognizance was taken as early as in 1999. The case against the petitioner is continuing to be pending. As the petitioner did not appear, the learned Magistrate has issued coercive processes against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. His failure/omission to appear before the learned Magistrate was not wilful; but was due to reasons beyond his control. He was working abroad since 1999. He has not come back to India during this period. The petitioner shall return to India within a period of one week. The petitioner is willing to appear before the learned Magistrate and seek regular bail. But he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He, therefore, prays that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

3. I find no reason to issue directions under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances

under which he could not earlier appear before the learned Magistrate.

4. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in Alice George vs. Deputy Superintendent of Police [2003(1) KLT 339].

5. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

Hand over copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007